



## TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.  
EXECUTIVE COMMISSIONER

July 11, 2013

### EVENT/MEETING BRIEFING

#### MEMORANDUM FOR THE EXECUTIVE COMMISSIONER

THROUGH: Stephanie Muth  
Deputy Executive Commissioner, Social Services

Liz Garbutt  
Associate Commissioner, Community Access and Services

FROM: Jeff Johnson  
Director, Community Services

SUBJECT: Texas Pregnancy Care Network Contract Amendment for Fiscal Year 2014  
(Contract #529-10-0013-0001)

### **Purpose**

To update you on current issues related to the HHSC contract with the Texas Pregnancy Care Network (TPCN) and to seek your approval to enter into negotiations with TPCN to amend the contract terms and conditions for fiscal year 2014 with specific provisions. The current contract with TPCN expires on August 31, 2013, and we request a decision by June 28, 2013, in order to ensure continuity in program service delivery.

### **Background Summary**

During the Regular Session, the 79<sup>th</sup> Texas Legislature enacted Section 50, Special Provisions Relating to All Health and Human Services Agencies, Article II, S.B.1 (The General Appropriations Act), and made it effective September 1, 2005. Its purpose was to implement statewide program for females focused on pregnancy support services that promote childbirth. The services provided under this funding have twice been procured. The original competitive procurement was conducted in 2005, and the second in 2009.

As a result of both procurements, TPCN was awarded the contract. The second contract term began on September 2, 2009, and ended August 31, 2011. The terms and conditions of this second contract provided for an extension of the contract term for a maximum period of four years. The current fiscal year 2013 TPCN contract is the second year of the four-year extension provision; therefore, there are two remaining extensions available for fiscal 2014 and fiscal year 2015. Re-procurement activities for these services will begin in fiscal year 2015 for a new award for fiscal year 2016.

TPCN serves as the conduit to recruit and retain a network of service providers throughout Texas that provide counseling, mentoring, and other support for women facing an unexpected pregnancy. In order to receive services clients must be a legal resident and be pregnant. The services provided are free of charge to eligible women and families.

The 83<sup>rd</sup> Texas Legislature appropriated \$10.3 million for program services for the 2014-2015 biennium. This appropriation represents a \$1 million increase in funding in each year of the new biennium.

*TPCN Contract Funding:*

	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Amount	\$2,500,000	\$2,800,000	\$4,000,000	\$4,000,000	\$4,150,000	\$5,150,000	\$5,150,000
Source	TANF 100%	TANF 100%	TANF 71% GR 29%	TANF 71% GR 29%	TANF 73% GR 27%	TBD	TBD

The Office of Inspector General (OIG) issued a Performance Audit Report (OIG Report No. 12-55-000001A-TP-OI – *Attachment*) detailing the results of an audit of the current contract with TPCN. The audit covered the period of September 1, 2009, through August 31, 2011. The objectives of the audit were to determine if TPCN complied with the terms and conditions contained within its HHSC contract, and to address concerns contained in a constituent letter dated May 10, 2012.

**Discussion**

In the Performance Audit Report, the OIG identified two findings, and a recommendation related to strengthening the contract's performance measures. The first finding related to a charge (surcharge) retained by TPCN on all contractor payments. The second finding related to compliance with HHSC travel policies and procedures and the payment by TPCN of disallowed expenses, which was nominal.

Related to the surcharge, the OIG report noted that in the terms and conditions of the service provider's contract agreements with TPCN, they agree to remit to TPCN three percent of the

service provider's reimbursement for services rendered. Of this three percent, one percent pays TPCN for costs related to service provider use of the Real Alternatives Program and Instructional Design (RAPID) system. The remaining two percent is allocated to TPCN Corporate to support, enlarge, and enhance alternatives to abortion services.

In its recommendation, the OIG report guided that since TPCN's current budget model contains components for: project administration, statewide information, outreach, education and referral programs and services, and client services, the practice of imposing a surcharge is avoidable noting that such expenses may be classified and directly billed in the existing budget model.

In relation to TPCN subcontracts, HHSC legal has recommended that the provisions of the TPCN subcontracts include a process whereby the subcontractors can contact HHSC program staff should they have any issues or concerns that warrant HHSCs attention. Additionally, it is recommended that program and legal staff review and approve subcontracts of the TPCN contract.

The balance of the OIG report identified opportunities for improvements in performance reporting. Specifically, the report recommends that CAS and TPCN implement a collaborative approach to create more meaningful contract deliverables that better describe and measure the success/accomplishments of TPCN including performance reports that will indicate the number of eligible participants served and the impact of TPCN on the eligible population. Further, such deliverable reports and measures should be submitted to HHSC on a monthly basis, rather than on the current quarterly reporting cycle.

During a recent on-site monitoring visit, HHSC program staff identified an additional TPCN contract issue. Currently the HHSC contract with TPCN does not include requirements submission of budget amendments. TPCN has historically submitted budget revisions at the end of the fiscal year. CAS recommends that budget revisions be submitted on a quarterly basis with an established threshold for approval of budget changes.

Based on the findings of the OIG performance audit and additional recommendations from OIG, program and legal staff, CAS requests your approval to enter into negotiations with TPCN to amend the current TPCN contract which will be extended for fiscal year 2014 services. Negotiation points will include:

- The prohibition of the three percent surcharge practice – transferring such costs to the approved budget by category of expense.
- The additional funding provided by the Legislature, and the development of new monthly contract deliverables that better describe and measure the program performance and the impact of TPCN on the eligible population.
- New requirements for TPCN subcontracts, including language to permit subcontractors to contact HHSC, and prior HHSC review and approval.

- New requirements for budget revisions. TPCN will be required to submit quarterly budget revisions which meet the established thresholds for requiring prior approval.

**Event/Meeting Date, Time, and Location**

Friday, July 12, 2013  
9:00 a.m. – 10:00 a.m.  
Brown-Heatly Building, Room 7105

**Participants**

Stephanie Muth  
Mary Katherine Stout  
Liz Garbutt  
Jeff Johnson  
Charly Meisner  
Doug Wilson  
Carey Smith  
Kathleen Anderson

Attachment

cc: Erica Stick, Chief of Staff